

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Promote  
Policy and Program Coordination and  
Integration in Electric Utility Resource  
Planning

R. 04-04-003

U 39 E

**COMMENTS OF  
PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)  
ON THE PROPOSED DECISION OF  
ADMINISTRATIVE LAW JUDGE WETZELL**

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December 4, 2006

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**I. INTRODUCTION**

Pacific Gas and Electric Company (“PG&E”) hereby comments on the Proposed Decision of Administrative Law Judge (“ALJ”) Wetzell, mailed November 14, 2006 (the “PD”). PG&E appreciates the effort by ALJ Wetzell to conscientiously address the multiple petitions to modify submitted in this matter, and supports the conclusions set forth in the PD, with two exceptions: 1) the strict and rigid interpretation of the obligation on load-serving entities (“LSEs”) that receive migrating load from other LSEs, even where that load obligation cannot be refused and has been received with little or short notice; and 2) the insufficiently justified relaxation of the offer obligation on imports, releasing them of the need to offer through the real-time.

As discussed below, and in PG&E’s previous comments on the original Petitions for Modifications<sup>1</sup>, these elements warrant careful consideration. If the Commission elects to not revise the proposed treatment of the issues in this PD as requested herein, PG&E asks that a decision on these issues is deferred so that they may be included as topics to be reviewed in Resource Adequacy (“RA”) Phase II proceeding, R.05-12-013, for the June 2007 decision timeframe. PG&E provides its comments on these issues below, and its proposed revisions for findings of fact and ordering paragraphs regarding those issues in the attachment.

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<sup>1</sup> PG&E filed comments on March 24, 2006, in response to Petition for Modification (“PTM”) by Southern California Edison (“SCE”). In addition, joint comments by SCE and PG&E were filed on January 23, 2006, in response to the PTM filed by the Independent Energy Producers Association (“IEP”).

## **II. TO AVOID IMPOSSIBLE OBLIGATIONS, IOUS RECEIVING LOAD MUST BE AFFORDED REASONABLE TIME TO ADJUST**

In Section 3.10 of the PD (“Adjustments to Monthly Load Forecasts (SCE)”), the PD declines to adopt SCE’s proposals for the treatment of near-term load migration (within a six month timeframe) for RA capacity planning purposes and imposition of associated penalties. The PD fails to recognize the impossible burden placed on the Investor-Owned Utilities (“IOUs”), whose obligation to serve would place them at risk of penalty with no real opportunity to timely cure when load returns just prior to an RA demonstration.<sup>2</sup> LSEs that can choose whether to accept migrating load can at least decline to do so, if there is simply insufficient time for them to acquire commensurate additional capacity. For the IOUs, however, the obligation to serve as provider of last resort does not allow them to decline returning load.

If, for example, an Energy Service Provider (“ESP”) or Community Choice Aggregator (“CCA”) defaults shortly before a compliance filing, and its load is assigned to the IOU, the IOU may not be able to fully contract for the incremental load before a demonstration is due. IOU procurement is subject to significant monitoring through the action of its Procurement Review Group, rules regarding how procurement must be performed, and compliance filings. These monitoring activities add time to the contracting process that may exacerbate the difficulty faced by an IOU in responding rapidly to a large influx of load shortly before a RA demonstration. It would be manifestly inconsistent with the Commission’s deliberate approach to overseeing IOU procurement, and would be manifestly unjust, for the IOU to be subject to penalty for failure to instantly procure to cover received migrating load, as they are generally constrained from doing so.

In the PD, the Commission reiterates its policy objective that procurement by the California Independent System Operator Corporation (“CAISO”) is to be avoided in favor of LSE procurement when at all possible; PG&E certainly agrees. The PD declines to adopt the penalty exemption in part because that action could allow LSEs to rely completely on CAISO procurement for the returned load. However, the fact that IOUs

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<sup>2</sup> In footnote 11, the PD notes that the Energy Division has provided guidance on adjustments for load migration; PG&E appreciates the Energy Division’s work in developing this guidance, but is concerned that the guidance does not reflect the realities of the burdens on IOUs when load returns with little or no notice. PG&E requests that this issue be revisited in upcoming proceedings in R.05-12-013.

undergo significant regulatory oversight, as stated above, should provide the Commission comfort that the IOUs will endeavor to contract to meet the capacity planning needs of returning load to the extent possible.

For all the above reasons, the IOUs should be exempt from penalties associated with load that returns within any given six month period. The Commission could revisit this exemption if, in the future, there is any reason for concern that the exemption is resulting in larger than anticipated, and potentially preventable, CAISO procurement.

### **III. ABSENT COMPELLING AND UNAVOIDABLE OPERATIONAL CONSTRAINTS, RA PRODUCTS SHOULD BE TREATED EQUALLY**

In Section 3.12 (“Applicability of the Real-Time Obligation to Imports (SCE)”), the PD adopts SCE’s proposal that import contracts should not have any real-time availability requirement. Translated into the language of the CAISO’s Market Redesign and Technology Upgrade (“MRTU”), this exemption would mean if import contracts are not dispatched through the Integrated Forward Market (“IFM”) or selected in the Residual Unit Commitment (“RUC”) process, they would have no further obligations.<sup>3</sup> The proposed treatment resembles the treatment of long-start, in-area resources; however, PG&E is unaware of any operational reasons that have been presented to justify why a system resource from outside the CAISO area should be treated as less agile as an in-area short-start resource up until the time of the Hour-Ahead Scheduling Process (“HASP”), when adjustments to import schedules can be considered.<sup>4</sup> There is, therefore, no reason that imports should receive special treatment, freeing them from the obligation to offer beyond the IFM/RUC even if not selected, until the HASP is completed.

The primary reason cited by SCE and the Commission for adopting this treatment is that imports cannot be called upon preferentially during congestion conditions. However, the RA process contains provisions that limit the amount of the inter-tie capacity that can be relied on by RA import contracts. If congestion at an inter-tie is occurring, the CAISO is already receiving all of the import capacity it could want or use (and likely more than it identifies as available for RA allocation purposes) from that

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<sup>3</sup> An import selected by the RUC process would be obligated to submit a bid into the HASP, under the CAISO’s MRTU Tariff, which is available at <http://www.caiso.com/1798/1798ea1b23080.html>.

<sup>4</sup> See Prepared Direct Testimony of Lorenzo Kristov, FERC Docket ER06-615, at 63 et seq (in support of CAISO’s MRTU Tariff filing), available at <http://www.caiso.com/1798/1798f5a45efa0.pdf>.

inter-tie. In such circumstances, neither the Commission nor CAISO should be concerned in the operational timeframe whether the tie is full with RA capacity or other capacity, only that it is full – which necessarily means that the RA planning has been successful, and that imports are sustaining the system to the maximum extent possible.

In contrast, the failure to extend the obligation on imports through the HASP could result in fewer imports being made available to the CAISO, at times when the CAISO needs those imports most. In the case of a rapid-onset, unexpected heat-wave, the CAISO's RUC forecast wouldn't fully capture the load increase in time for the day-ahead RUC process, and therefore wouldn't select the level of imports ultimately needed. Under the approach proposed in the PD, any import RA capacity that was not selected in the IFM/RUC would no longer need to make itself available, and the CAISO could well find that insufficient imports were available to select in the HASP to meet the enhanced demand resulting from the heat-wave.

PG&E is also concerned that the approach outlined in the PD may have unanticipated and undesirable influence on the CAISO's procurement decisions in the RUC. If RA import products that are not selected in the IFM/RUC are not obligated to submit bids in the HASP, the CAISO may feel compelled to be overly conservative during the RUC process with respect to imports. While the Commission has determined that RA resources must bid zero in the RUC process, CAISO's RUC procurement practices can be expected to influence RA product prices, and high levels of RUC procurement relative to actual dispatch will undoubtedly increase the price of RA products.

For these reasons, PG&E believes that the intent of the RA program is best served by clearly obliging future import RA products to bid into the HASP. PG&E recognizes that CPUC policy and CAISO policy needs to harmonize when considering these obligations. Therefore, while we urge the Commission to adopt this treatment, we would also condition this treatment on the CAISO's implementation of this bidding requirement in its MRTU tariff. PG&E does not believe CPUC jurisdictional entities should be subject to more stringent requirements than non-jurisdictional entities, and that a CAISO update of its MRTU tariff should apply equally across the board. .

PG&E again commends ALJ Wetzell for his efforts in preparing the PD, which generally will promote the Commission's goals for the RA program. PG&E requests that the PD's treatment of the two issues addressed above, regarding the particular effects of load migration on IOUs and the obligations placed on import RA resources, is revised to better serve the reliability and equity that the Commission intended to achieve in adopting the RA program. PG&E requests that the PD is revised consistent with these comments and the attached revisions to the proposed findings of fact and ordering paragraphs.

WILLIAM V. MANHEIM  
CHARLES R. MIDDLEKAUFF  
ARTHUR L. HAUBENSTOCK

Dated: December 4, 2006

# APPENDIX A

**PG&E's Proposed Revisions to the  
Findings of Fact and Ordering Paragraphs**  
(additions are double-underlined; deletions are shown in strike-out).

**Findings of Fact**

1. An import that could simply be delivered to a firm delivery point within the CAISO Control Area generally would be indistinguishable from an in-area firm LD contract, and the supplier of the import could potentially source the obligation from power within the CAISO Control Area.

2. The CAISO's determination of the feasibility of a particular import path pertains to pre-established limits in the CAISO's baseline analysis, which are not related to local capacity requirements.

3. Availability of a master file of unit operational characteristics and limitations of RA-qualified units should facilitate lower-cost and operationally feasible dispatch by the CAISO.

4. Exempting the portion of a unit's capacity that is not subject to an RA contract from the zero-bid RUC requirement is possible because the concern about double counting revenue streams from RA capacity payments and RUC payments is inapplicable.

5. Providing clarification that the sequential availability obligation that was adopted in D.04-10-035 and expanded upon in D.05-10-042 is prospective (*i.e.*, is applicable to contracts executed after issuance of D.05-10-042) may promote better understanding of our RA program.

6. Imports cannot be preferentially called upon during congestion conditions to meet the CAISO's needs even if they are subject to a real-time obligation bid into the Real-Time Market under MRTU, but should be required to bid into the Day-Ahead Market, Residual Unit Commitment and Hour-Ahead Scheduling Process under MRTU.

7. Due to their obligation to serve as providers of last resort, the IOUs may be required to accept returning load with little or no notice, just prior to the time at which resource adequacy demonstrations are required, making it difficult or impossible for the IOUs to reflect that returning load in the demonstrations and to timely acquire resource adequacy capacity commensurate with that load.



## Conclusions of Law

1. The petitions of the CAISO, IEP, and SCE should be granted to the extent provided herein.

2. D.05-10-042 should be modified in accordance with the foregoing discussion and findings.

## ORDER

**IT IS ORDERED** that:

1. The petitions for modification of Decision (D.) 05-10-042 filed by the California Independent System Operator (CAISO), the Independent Energy Producers Association (IEP), and Southern California Edison Company (SCE) are granted to the extent provided herein.

2. D.05-10-042, as previously modified by D.06-04-040, is further modified as follows:

- a. The following text is added at the end of the second full paragraph at page 15:

All sellers should have an opportunity to demonstrate to the CAISO that their units are either short-start or long-start units. In addition, we recommend that the CAISO should maintain a master file of the operational characteristics and limitations of each RAR unit so that units are not dispatched in a way that is excessively costly or operationally impossible.

- b. The following text is added at the end of the third paragraph at page 15 that continues onto page 16, (as modified by Ordering Paragraph 1. d. of D.06-04-040):

Import contracts are subject to the Day-Ahead Market, Residual Unit Commitment, and Hour-Ahead Scheduling Process must-offer obligation adopted herein, but are not subject to the real time must-offer obligation adopted herein.

- c. The following text is added at the end of the second full paragraph at page 16:

However, capacity that is not subject to an RAR agreement is not subject to the \$0 bid obligation, including the portion of a unit's capacity that is not covered under an RAR agreement.

- d. The second and third sentences of the first full paragraph at page 18 are modified to read as follows (additional language is underlined):

In particular, we would expect prospective contracting parties to formulate terms and conditions that appropriately allocate any risks of generator nonperformance that accrue to the LSE. Additionally, we would expect future RA contracts to require generators to comply with all CAISO tariff provisions, including those to be developed addressing RA resource performance obligations and penalties.

- e. The fourth sentence of the third numbered paragraph at page 56 is modified to read as follows (deleted language is struck through):

If the CAISO determines that the allocation on a particular path is not feasible ~~to meet a local requirement~~, then it would allocate first based on 'evergreen' priority, and then based on the load share percentage.

- f. The third sentence of the first full paragraph at page 68 is modified to read as follows (additional language is underlined):

Accordingly, we approve the exemption of firm import LD contracts from the sunset/phase-out provisions applicable to other LD contracts as adopted in Section 7.4, provided, however, that to qualify for the exemption a firm import LD contract must specify a firm delivery point at an inter-tie.

- g. Finding of Fact 6 is modified to read as follows (additional language is underlined):

It is necessary that RA resources be available to the CAISO when and where needed. It is consistent with that determination that all RA resources ~~(excluding import contracts with resources outside the CAISO control area)~~ have an obligation to make themselves available to the

CAISO in real time to the extent they are physically capable (import contracts with resources outside the CAISO control area must only make themselves available through the Day-Ahead Market, Residual Unit Commitment, and Hour-Ahead Scheduling Process).

- h. Conclusions of Law 20 and 21 are modified to read as follows (additional language is underlined):

20. In their month-ahead filings, LSEs should be required to incorporate adjustments to their year-ahead load forecasts to account for customer migration, except to the extent that an IOU must accept returning load that occurs less than six months prior the submission of the load forecasts.

21. A penalty equal to three times the monthly cost for new capacity is an appropriate sanction for an LSE's failure to acquire the capacity needed to meet its RA obligation, except to the extent of capacity commensurate with load that returns to an IOU less than six months prior to the demonstration required for the RA obligation; for 2006 only, a penalty of one-half that amount is reasonable.

3. The resource adequacy requirements portion of this proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## **CERTIFICATE OF SERVICE BY ELECTRONIC MAIL**

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the party to the within cause; and that my business address is 77 Beale Street, B30A, San Francisco, California 94105. I hereby certify that I have this day electronically served the foregoing document(s) upon each member of the official service list of R.04-04-003 pursuant to Rule 2.3 of the California Public Utilities Commission's Rules of Practice and Procedure

### **COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE WETZELL**

to the attached e-mail service list, and if no e-mail address was available, the party was served by U.S. Mail.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 4, 2006, at San Francisco, California.

/S/

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**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
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Downloaded December 4, 2006, last updated on November 27, 2006

**Commissioner Assigned:** Michael R. Peevey on April 6, 2004; **ALJ Assigned:** Carol A. Brown on August 12, 2004

**ALJ Assigned:** Mark S. Wetzell on April 6, 2004

**C**

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)
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# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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**Commissioner Assigned:** Michael R. Peevey on April 6, 2004; **ALJ Assigned:** Carol A. Brown on August 12, 2004

**ALJ Assigned:** Mark S. Wetzell on April 6, 2004

## CPUC DOCKET NO. R0404003 CPUC REV 11-27-06

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# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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**Commissioner Assigned:** Michael R. Peevey on April 6, 2004; **ALJ Assigned:** Carol A. Brown on August 12, 2004

**ALJ Assigned:** Mark S. Wetzell on April 6, 2004

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Total number of addressees: 325

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# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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**ALJ Assigned:** Mark S. Wetzell on April 6, 2004

## CPUC DOCKET NO. R0404003 CPUC REV 11-27-06

Total number of addressees: 325

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# THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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**ALJ Assigned:** Mark S. Wetzell on April 6, 2004

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Total number of addressees: 325

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Total number of addressees: 325

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